

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

RICHARD WADE, and SAVANNAH  
CHAMPION,

Plaintiffs,

v.

STEVEN GUNDERSON, RALPH  
VALLIMONT, CHRIS LECHUGA,  
JEREMY JOHNSON, WILLIAM  
BOEHM, TREVOR CHAMPION,  
SABRINA CHAMPION, JACKIE  
CHAMPION, and DOES 1 to 100,  
inclusive,

Defendants.

No. 2:20-cv-01965-TLN-KJN

**ORDER**

This matter is before the Court on Defendants Steven Gunderson (“Gunderson”), Ralph Vallimont (“Vallimont”), Chris Lechuga (“Lechuga”), Jeremy Johnson (“Johnson”), and William Boehm’s (“Boehm”) (collectively, “City Defendants”) Motion to Dismiss. (ECF No. 26.) Plaintiffs Richard Wade (“Wade”) and Savannah Champion (“Savannah”) (collectively, “Plaintiffs”) have filed an opposition. (ECF No. 27.) City Defendants filed a reply. (ECF No. 29.) For the reasons set forth below, the Court GRANTS City Defendants’ Motion to Dismiss (ECF No. 26) with leave to amend.

1           **II. FACTUAL AND PROCEDURAL BACKGROUND<sup>1</sup>**

2           On March 22, 2021, Plaintiffs filed a Second Amended Complaint (“SAC”) alleging  
3 various causes of action stemming from incidents allegedly occurring in 2019. (ECF No. 25.)  
4 Plaintiffs allege that on April 7, 2019, Savannah, a minor, went to the hospital after experiencing  
5 abdominal pains, and suffered a miscarriage. (ECF No. 25 at 3–4.) Plaintiffs state that one hour  
6 later Savannah’s mother, Defendant Sabrina Champion (“Defendant Champion”) made false  
7 statements to the Vacaville Police Department, stating Wade — who was twenty-eight years old  
8 at the time — was Savannah’s boyfriend and responsible for the miscarriage. (*Id.* at 3–4, 23.)  
9 These statements were allegedly made in retaliation for Wade disclosing Defendant Champion’s  
10 infidelities to her husband. (*Id.* at 4.) Plaintiffs allege despite the statements being false, various  
11 incidents occurred in subsequent months including falsified police statements and Wade’s  
12 unlawful arrest. (*Id.* at 5–12.)

13           Plaintiffs filed their SAC on March 22, 2021. (ECF No. 25.) Plaintiffs’ SAC alleges two  
14 causes of action against City Defendants under § 1983. (*Id.* at 5,14.) Plaintiffs’ first cause of  
15 action alleges: (1) use of excessive force; (2) unlawful seizure; and (3) unreasonable search-  
16 judicial deception. (*Id.* at 5.) Plaintiffs’ second cause of action alleges violations of Plaintiffs’  
17 due process rights for: (1) deliberate fabrication of evidence; (2) deliberate or reckless  
18 suppression of evidence; and (3) conspiracy to violate Plaintiff’s civil rights. (*Id.* at 14.)

19           City Defendants filed a motion to dismiss on April 12, 2021, pursuant to Federal Rule of  
20 Civil Procedure (“Rule”) 12(b)(6). (ECF No. 26.) Plaintiffs subsequently filed an opposition to  
21 City Defendants’ Motion to Dismiss on May 13, 2021. (ECF No. 27.) City Defendants replied  
22 on May 20, 2021. (ECF No. 29.)

23           **III. STANDARD OF LAW**

24           A motion to dismiss for failure to state a claim upon which relief can be granted under  
25 Rule 12(b)(6) tests the legal sufficiency of a complaint. *Navarro v. Block*, 250 F.3d 729, 732 (9th  
26 Cir. 2001). Rule 8(a) requires that a pleading contain “a short and plain statement of the claim

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<sup>1</sup>           The following recitation of facts is taken, sometimes verbatim, from Plaintiffs’ Second  
28 Amended Complaint. (ECF No. 25.)

1 showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a)(2); *see also Ashcroft v. Iqbal*,  
 2 556 U.S. 662, 677–78 (2009). Under notice pleading in federal court, the complaint must “give  
 3 the defendant fair notice of what the . . . claim is and the grounds upon which it rests.” *Bell*  
 4 *Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal citation and quotations omitted).  
 5 “This simplified notice pleading standard relies on liberal discovery rules and summary judgment  
 6 motions to define disputed facts and issues and to dispose of unmeritorious claims.” *Swierkiewicz*  
 7 *v. Sorema N.A.*, 534 U.S. 506, 512 (2002).

8 On a motion to dismiss, the factual allegations of the complaint must be accepted as true.  
 9 *Cruz v. Beto*, 405 U.S. 319, 322 (1972). A court must give the plaintiff the benefit of every  
 10 reasonable inference to be drawn from the “well-pleaded” allegations of the complaint. *Retail*  
 11 *Clerks Int’l Ass’n v. Schermerhorn*, 373 U.S. 746, 753 n.6 (1963). A plaintiff need not allege  
 12 “‘specific facts’ beyond those necessary to state his claim and the grounds showing entitlement to  
 13 relief.” *Twombly*, 550 U.S. at 570 (internal citation omitted).

14 Nevertheless, a court “need not assume the truth of legal conclusions cast in the form of  
 15 factual allegations.” *U.S. ex rel. Chunie v. Ringrose*, 788 F.2d 638, 643 n.2 (9th Cir. 1986).  
 16 While Rule 8(a) does not require detailed factual allegations, “it demands more than an  
 17 unadorned, the defendant-unlawfully-harmed-me accusation.” *Iqbal*, 556 U.S. at 678. A  
 18 pleading is insufficient if it offers mere “labels and conclusions” or “a formulaic recitation of the  
 19 elements of a cause of action.” *Twombly*, 550 U.S. at 555; *see also Iqbal*, 556 U.S. at 678  
 20 (“Threadbare recitals of the elements of a cause of action, supported by mere conclusory  
 21 statements, do not suffice.”). Thus, “conclusory allegations of law and unwarranted inferences  
 22 are insufficient to defeat a motion to dismiss” for failure to state a claim. *Adams v. Johnson*, 355,  
 23 F.3d 1179, 1183 (9th Cir. 2004) (citations omitted). Moreover, it is inappropriate to assume the  
 24 plaintiff “can prove facts that it has not alleged or that the defendants have violated the . . . laws  
 25 in ways that have not been alleged.” *Associated Gen. Contractors of Cal., Inc. v. Cal. State*  
 26 *Council of Carpenters*, 459 U.S. 519, 526 (1983).

27 Ultimately, a court may not dismiss a complaint in which the plaintiff has alleged “enough  
 28 facts to state a claim to relief that is plausible on its face.” *Twombly*, 550 U.S. at 570. “A claim

1 has facial plausibility when the plaintiff pleads factual content that allows the court to draw the  
 2 reasonable inference that the defendant is liable for the misconduct alleged.” *Iqbal*, 556 U.S. at  
 3 678. While the plausibility requirement is not akin to a probability requirement, it demands more  
 4 than “a sheer possibility that a defendant has acted unlawfully.” *Id.* This plausibility inquiry is “a  
 5 context-specific task that requires the reviewing court to draw on its judicial experience and  
 6 common sense.” *Id.* at 679. Thus, only where a plaintiff fails to “nudge [his or her] claims . . .  
 7 across the line from conceivable to plausible[,]” is the complaint properly dismissed. *Id.* at 680  
 8 (internal quotations omitted).

9 If a complaint fails to state a plausible claim, ““a district court should grant leave to amend  
 10 even if no request to amend the pleading was made, unless it determines that the pleading could  
 11 not possibly be cured by the allegation of other facts.”” *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th  
 12 Cir. 2000) (en banc) (quoting *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995)); *see also*  
 13 *Gardner v. Martino*, 563 F.3d 981, 992 (9th Cir. 2009) (finding no abuse of discretion in denying  
 14 leave to amend when amendment would be futile). Although a district court should freely give  
 15 leave to amend when justice so requires under Rule 15(a)(2), “the court’s discretion to deny such  
 16 leave is ‘particularly broad’ where the plaintiff has previously amended its complaint[.]”  
 17 *Ecological Rights Found. v. Pac. Gas & Elec. Co.*, 713 F.3d 502, 520 (9th Cir. 2013) (quoting  
 18 *Miller v. Yokohama Tire Corp.*, 358 F.3d 616, 622 (9th Cir. 2004)).

#### 19 IV. ANALYSIS

20 City Defendants argue the SAC “fails to state facts sufficient to state the claims asserted.”<sup>2</sup>  
 21 (ECF No. 26 at 11.) City Defendants contend the SAC fails to allege the basis of Plaintiffs’  
 22 claims against each Defendant. (*See Id.* at 10–11.) In opposition, Plaintiffs argue the motion to  
 23 dismiss should be denied, but request “leave to amend their [SAC] to more clearly state their  
 24 causes of action against Defendants.” (ECF No. 27 at 12.)

25 Rule 8 requires “each averment of a pleading to be ‘simple, concise, and direct[.]’” *See*  
 26 *McHenry v. Renne*, 84 F.3d 1172, 1177–78 (9th Cir. 1996) (citations omitted). To comply with

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27       <sup>2</sup> As this argument is dispositive, the Court declines to address City Defendants’ remaining  
 28 arguments.

1 Rule 8, a complaint should clearly and fully set forth “who is being sued, for what relief, and on  
2 what theory, with enough detail to guide discovery.” *Id.* at 1178. Even if the factual elements of  
3 a cause of action are present but are scattered throughout the complaint and not organized into a  
4 “short and plain statement of the claim,” dismissal for failure to satisfy Rule 8 is proper. *Id.*  
5 Further, “[t]he propriety of dismissal for failure to comply with Rule 8 does not depend on  
6 whether the complaint is wholly without merit.” *Id.* at 1179. Indeed, Rule 8(e)’s requirement  
7 that each averment of a pleading be “‘simple, concise, and direct,’ applies to good claims as well  
8 as bad, and is a basis for dismissal independent of Rule 12(b)(6).” *Id.*

9       Shotgun pleading occurs when: (1) one party pleads that multiple parties did an act,  
10 without identifying which party did what specifically; or (2) when one party pleads multiple  
11 claims and does not identify which specific facts are allocated to which claim. *Hughey v.*  
12 *Camacho*, No. 2:13-CV-2665-TLN-AC, 2014 WL 5473184, at \*4 (E.D. Cal. Oct. 23, 2014)  
13 (citing *In re Mortgages Ltd.*, No. 2:08-bk-07465-RJH, 2013 WL 1336830, at \*12 (Bankr. D. Ariz.  
14 March 29, 2013); *see also Magulta v. Samples*, 256 F.3d 1282, 1284 (11th Cir. 2001)).

15       Here, Plaintiffs’ SAC fails to comply with Rule 8. Plaintiffs’ first cause of action in the  
16 SAC alleges: (1) use of excessive use of force; (2) unlawful seizure; and (3) unreasonable search-  
17 judicial deception “[b]y Plaintiff SAVANNAH CHAMPION and Plaintiff RICHARD WADE  
18 against Defendants, RALPH VALLIMONT, STEVEN GUNDERSON, JEREMY JOHNSON,  
19 CHRIS LECHUGA, and WILLIAM BOEHM.” (ECF No. 25 at 5–6.) Plaintiffs structure their  
20 second cause of action the same way. (*Id.* at 14.) Within each cause of action, Plaintiffs fail to  
21 properly assert, in compliance with Rule 8, specific facts with respect to each Defendant’s  
22 liability for the specified claim. (*Id.* at 5, 13–14, 17.)

23       Plaintiffs’ SAC further states, “Defendants deprived Plaintiffs of their right to be free  
24 from unreasonable seizures, unreasonable searches, the excessive use of force, to be free from  
25 misrepresentations as well as omissions in a warrant, and to arbitrary and unreasonable actions.”  
26 (*Id.* at 13.) Such allegations fail to allege the basis of Plaintiffs’ claims against each Defendant  
27 and fails to properly put Defendants on notice to allow them to plead intelligently. *Flores v. EMC*  
28 *Mortg. Co.*, 997 F. Supp. 2d 1088, 1103 (E.D. Cal. 2014); *see also Inman v. Anderson*, 294 F.

1 Supp. 3d 907, 919 (N.D. Cal. 2018) (a plaintiff's pleading should "allege what role each  
2 [d]efendant played in the alleged harm"); *Culinary Studios, Inc. v. Newsom*, 517 F. Supp. 3d  
3 1042, 1074 (E.D. Cal. 2021) ("[b]road allegations against numerous defendants are not specific  
4 enough to provide the defendants with notice of the plaintiffs' allegations.") (citations and  
5 quotation marks omitted). This lack of clarity permeates the entire SAC and is a sufficient basis  
6 for dismissal. *See Destfino v. Reiswig*, 630 F.3d 952, 958 (9th Cir. 2011) (affirming a district  
7 court's dismissal of an entire complaint that made "'everyone did everything' allegations"  
8 without leave to amend because "[t]he district court made clear . . . that plaintiffs must amend  
9 their 'shotgun pleading' to 'state[ ] clearly how each and every defendant is alleged to have  
10 violated plaintiffs' legal rights'" and plaintiffs failed to do so) (alteration in original); *see also*  
11 *Bautista v. Los Angeles Cnty.*, 216 F.3d 837, 840–841 (9th Cir. 2000) (affirming dismissal of a  
12 complaint where the complaint failed to include short and plain statement of claim of each of the  
13 fifty-one plaintiffs and failed to state each plaintiff's claim in separate count).

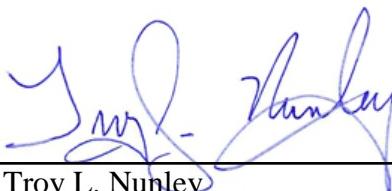
14 Plaintiffs appear to concede their SAC fails to comply with Rule 8 and request leave to  
15 amend their complaint. (*See* ECF No. 27 at 7–9, 12.) Accordingly, the Court GRANTS City  
16 Defendants' Motion to Dismiss (ECF No. 26) with leave to amend.

17 **V. CONCLUSION**

18 For the foregoing reasons, City Defendants' Motion to Dismiss (ECF No. 26) is hereby  
19 GRANTED with leave to amend. Plaintiffs are hereby granted thirty (30) days from the date this  
20 Order is filed to file an amended complaint in conformity with this Order. Defendants shall file a  
21 responsive pleading to the amended complaint within twenty-one (21) days from the electronic  
22 filing date of the amended complaint.

23 **IT IS SO ORDERED.**

24 DATED: March 8, 2022

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27 Troy L. Nunley  
28 United States District Judge